

	STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES		POLICY AND PROCEDURE NUMBER <b>10.02.023</b>	PAGE 1 of 4
	<b>Policy and Procedure</b>		EFFECTIVE DATE July 20, 2000	
SUBJECT <b>Investigating Suspected Procurement Code          Infractions</b>		SUPERSEDES		DATED
TITLE <b>Procurement and          Property</b>	CHAPTER <b>Contracting</b>	APPROVED BY Signature on File		

## POLICY

It is the policy of the DOT&PF to investigate and report on all suspected contract or procurement violations that occur within the Department and by those sister agencies that receive construction delegation of authority.

## PURPOSE

This document establishes procedures for the investigation and reporting of a suspected contract or procurement violation that occurs under the Department's statutory authority. If the procurement falls under Department of Administration (DOA) procurement authority, the procedures in the State Administrative Manual (Section 81.300 - 81.350) apply, and not this document.

The **Suspected Procurement Code Violation Report** substantiates the investigative process and, when a procurement infraction is substantiated, identifies the corrective or disciplinary action to be taken.

When a violation is suspected, the DOT&PF Chief Contracts Officer must be immediately notified. The person who discovers a possible contract or procurement violation, regardless of their employment position, contacts the DOT&PF Chief Contracts Officer who determines the next procedural step.

Most often, an investigation and report will be completed under the signature of the appropriate region, division, or system director. However, the DOT&PF Chief Contracts Officer will make the determination of who conducts the investigation and validates the report, and give instruction accordingly. Except in extenuating circumstances, the region, division, or system director endorses the report sent to the DOT&PF Chief Contracts Officer.

Placing responsibility for the investigation and formation of the report at the region, division, or system management level serves a twofold purpose.

- It requires that regional, divisional, or system management examines the purchasing procedures practiced in their organization. If improvements are needed, they are best achieved through that entity's initiative.
- In instances that show avoidable error or carelessness, employee discipline is best effected at that management level.

## PROCEDURE

The Suspected Procurement Code Violation Report is required to be completed and submitted to the DOT&PF Chief Contracts Officer within 10 working days after knowledge of a suspected violation. The report is structured as follows:

### 1. **A description of the suspected violation**

Briefly describe the purported violation(s) - examples:

- Was the department's purchasing authority exceeded - to what extent?
- Were competitive proposals, bids, or price quotes not solicited?
- Was there an unauthorized single source procurement?
- Was there no official contract established?
- Was the work performed after the contract expired?

Describe the services or supplies procured, the dollar amount, and explain how the suspected violation was discovered.

### 2. **The record of the investigation**

It is imperative that the region, division, system director (or their designee) interview those involved in the suspected violation in order to determine circumstances and facts.

All relevant documents must be examined, chronologically organized and attached to the report.

### 3. **Findings and conclusions**

#### **Findings**

- A narrative of the suspected violation and why the decision was made to investigate.
- A statement on how the vendor or product selection process was conducted.
- A reiteration of the minimum specifications or selection criteria used.
- A description of the service or supplies that were purchased.
- What were the costs or damages to the state caused by the suspected violation(s)? Explain how costs or damages were determined - if there were no costs or damages, explain.
- Explanation of whether the employee benefited in any way from their actions.

- Clarification of whether other employee's were involved. If so, to what extent.

### **Conclusions**

- A determination regarding the propriety of the selection process and the reasonableness of the minimum specifications.
- A finding whether the violation was inadvertent, or knowingly done.
- How and why the contract or procurement process broke down.
- A recommendation of what corrective action(s) should be taken to prevent future violation(s). If a new procedure is needed, attach a draft copy.
- Closing statement of recommendation on:
  - (a) Disciplinary or other corrective action
  - (b) Assessment of a civil penalty, under AS 36.30.930(1), or
  - (c) Initiation of a criminal investigation, under AS 36.30.930(2).

Attach to the report the employee's written comments or a transcription of their oral statements about the incident. The report and all investigative documents are official records and must be factual and objective. It should never contain unsupported allegations or unverified accusations.

If it is necessary to identify an employee, that part of the report must be in a separate section marked "**confidential - not open for public inspection**" under AS 39.25.080. If the report contains information that identifies a disciplinary action, which will become part of a personnel record, that part of the report begins with the statement:

**\*\*\* CONFIDENTIALITY \*\*\***

Those portions of this report, and the attachments thereto, which identify a specific employee disciplinary action and which will become part of a state personnel record, is confidential and not open to public inspection, as provided by AS 39.35.080.

If at any time during an investigation it appears a criminal violation has occurred, the region, division, or system director shall immediately notify the DOT&PF Chief Contracts Officer. The DOT&PF Chief Contracts Officer may, in consultation with the Office of the Attorney General, determine how the investigation then proceeds.

### **Report review by the DOT&PF Chief Contracts Officer**

The DOT&PF Chief Contracts Officer may adopt the report in whole or in part, return the report for further inquiry, or refer the matter to the Attorney General for consideration of criminal prosecution under AS 26.29.930(2) and AS 36.30.940.

## **Final Action**

If the responsible manager and the DOT&PF Chief Contracts Officer concur that the report and any corrective action planned is adequate, the Department's position will be finalized. When final action cannot be agreed on, the Commissioner will determine the Department's position.

When it is necessary to seek restitution for costs or damages arising from a violation under AS 36.30.930(1), and the person(s) refuses to repay the state, the matter must be referred to the Attorney General for civil enforcement and collection under AS 36.30.940.

## **AUTHORITY**

Alaska Statute AS 36.30

State Code 2 AAC 12

## **IMPLEMENTATION RESPONSIBILITY**

Chief Contract Officers  
Region, Division, and System Directors

## **DISTRIBUTION**

All holders of the Policy & Procedures Manual.